

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

SBC COMMUNICATIONS INC.,	:	
SBC DELAWARE INC.,	:	
AMERITECH CORPORATION,	:	
ILLINOIS BELL TELEPHONE COMPANY	:	
d/b/a AMERITECH ILLINOIS, and	:	
AMERITECH ILLINOIS METRO, INC.	:	
	:	98-0555
Joint Application for approval of the	:	
reorganization of Illinois Bell Telephone	:	
Company d/b/a Ameritech Illinois, and the	:	
reorganization of Ameritech Illinois Metro,	:	
Inc. in accordance with Section 7-204 of the	:	
Public Utilities Act and for all other	:	
appropriate relief.	:	

**ORDER ON DENIAL OF APPLICATION FOR REHEARING OF
NEIGHBORHOOD LEARNING NETWORK AND DSSA**

By the Commission:

On October 6, 1999, the Neighborhood Learning Network and DSSA ("NLN/DSSA") filed an Application for Rehearing. This Denial Order discusses the reasons why the NLN/DSSA Application for Rehearing is being denied.

Parties dissatisfied with Commission decisions occasionally file applications for rehearing which contain factually inaccurate claims questioning the Commission's impartiality or the fairness of the hearings afforded the applicants. The Commission's response ordinarily is simply to deny such applications without comment. In this case, given the serious, specific nature of the claim alleged, the Commission believes the record would benefit from an explanation as to why it is denying Count I of the Application for Rehearing of NLN/DSSA. In their application, NLN/DSSA argue that the Commission treated them "unfairly" by "secretly obtain[ing] an outside opinion relating to the issues raised by these intervenors and not providing the opinion to NLN and DSSA for a chance to respond." NLN/DSSA Application p.1. This is not the case. NLN/DSSA have apparently misinterpreted various public references by Commissioners to the Commission's in-house special legal assistant to mean that the Commission had sought a legal opinion from an outside firm. To the contrary, the legal opinion at issue was provided by an attorney from the Commission's Office of General Counsel, an attorney unassociated with the

Commission's advocacy Staff in the case. The Commission as a body and the Commissioners in their official capacities categorically state that no Commissioner has, in this case, requested, received, read or relied on any "outside" legal opinion relating to issues raised by any party or by Commission Staff from any "outside" counsel. Accordingly, NLN/DSSA's allegations regarding possible *ex parte* communications are wholly without merit.

Section 10-60 of the Illinois Administrative Procedure Act, which section prohibits unauthorized *ex parte* communications, specifically allows agency members to:

communicate with other members of the agency, and an agency member or administrative law judge may have the aid and advice of one or more personal assistants.

5 ILCS 100/10-60 (b).

Given the clear legal authority for the Commissioners to receive communications from their personal assistants, whether attorneys or non-attorneys, the legal opinion of the Commission's special legal assistant is not an *ex parte* communication within the meaning of Section 10-60. Also, and as NLN/DSSA themselves recognize, Section (b) Rule 63 of judicial conduct rules issued by the Illinois Supreme Court allows the decisionmaker to consult with internal personnel whose function is to aid the decisionmaker to carry out its decisionmaking duties. The legal memorandum at issue which the Commission received from its special legal assistant was consistent with Section 10-60 and was drafted by internal Commission personnel whose function it is to aid the Commission in its deliberations. Accordingly, there is no need for any Commissioner to recuse him or her self from this case, rehearing should not be granted on this point and copies of the legal opinion at issue need not be provided to the parties or included in the record.

In view of the foregoing, Count I, together with Counts II, III and IV and remaining unnumbered counts of the Application for Rehearing of the Neighborhood Learning Network and DSSA are hereby denied.

IT IS FURTHER ORDERED that, subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final, and is not subject to the Administrative Review Law.

By Order of the Commission this 15th day of November, 1999.

Chairman